

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

IN RE: DIGITEK  
PRODUCTS LIABILITY LITIGATION

MDL NO. 1968

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THIS DOCUMENT RELATES TO:

ALL CASES

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**AMENDED NOTICE TO TAKE VIDEOTAPED ORAL DEPOSITION**

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

**PLEASE TAKE NOTICE** that pursuant to Rule 30 of the Federal Rules of Civil Procedure, Plaintiffs in the above-entitled action will take the oral videotaped deposition of **MISBAH SHERWANI** on **Thursday, March 18, 2010, at 9:00 a.m.** at **Harris Beach PLLC, 100 Wall St., New York, New York, 10005**, before a Notary Public authorized to administer oaths for the State of New York. Said deposition will continue from day to day until completed.

The deposition will be recorded by Golkow Technologies, Inc., One Liberty Place, Suite 5150, Philadelphia, Pennsylvania 19103. Notice is also given that this deposition may be recorded by videotape. Plaintiffs reserve the right to use the videotaped deposition at the trial in this matter and in any other evidentiary hearing or proceeding where oral testimony may be admitted into evidence.

The deponent is not a party to this action. Service of this Notice and Subpoena will be accepted by email, per agreement, by Richard Dean, Esq., Tucker Ellis and West LLP, 1150 Huntington Building, 925 Euclid Avenue, Cleveland, OH 44115.

Said deponent has been or will be served with a deposition subpoena. **A COPY OF THE SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL IN A CIVIL CASE IS ATTACHED HERETO AND SERVED HEREWITH.** A list of all parties or attorneys for parties on whom this Notice of Deposition is being served is shown on the accompanying Certificate of Service.

Respectfully submitted,

On Behalf of the Plaintiffs' Steering Committee

s/FredThompson III

Fred Thompson, III, Esq.

Motley Rice, LLC

28 Bridgeside Blvd.

Mt. Pleasant, SC 29464

***Co-Lead Counsel***

Carl N. Frankovitch, Esq.

Frankovitch, Anetakis, Colantonio & Simon

337 Penco Road

Weirton, WV 26062

***Co-Lead Counsel***

Harry F. Bell, Jr., Esq.

Bell & Bands PLLC

P.O. Box 1723

Charleston 25326

***Co-Lead and Liaison Counsel***

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 25, 2010, I served via e-mail a true and correct copy of the foregoing Notice of Deposition of to:

Rebecca A. Betts, Defendants' Liaison Counsel  
Allen Guthrie & Thomas, PLLC  
P.O. Box 3394  
Charleston, WV 25333-3394

Harvey L. Kaplan, Esq.  
Shook Hardy and Bacon LLP  
2555 Grand Boulevard  
Kansas City, Missouri 64108

Matthew P. Moriarty  
Tucker, Ellis & West, LLP  
1150 Huntington Building  
925 Euclid Avenue  
Cleveland, Ohio 44115-1414

Richard A. Dean, Esq.  
Tucker Ellis and West LLP  
1150 Huntington Building  
925 Euclid Avenue  
Cleveland, Ohio 44115

Madeleine McDonough, Esquire  
Shook, Hardy, & Bacon LLP  
2555 Grand Boulevard  
Kansas City, Missouri 64108

PLAINTIFFS' STEERING COMMITTEE

By: s/FredThompson III

*Plaintiffs' Co-Lead Counsel*

## **EXHIBIT A**

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**EXHIBIT "A"**

**SUBPOENA DUCES TECUM**

Pursuant to the Rule 30(b)(2) of the Federal Rules of Civil Procedure, the witness shall bring the following documents to the deposition:

1. Curriculum vitae; and
2. All documents deponent reviewed in preparation for deposition.

## UNITED STATES DISTRICT COURT

for the

Southern District of West Virginia

In Re: Digitek Products Liability Litigation

*Plaintiff*

v.

*Defendant*

Civil Action No.

(If the action is pending in another district, state where:

## SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Misbah Sherwani, served by agreement on Richard Dean, Esq., Tucker Ellis and West LLP, 1150 Huntington Building, 925 Euclid Avenue, Cleveland, OH 44115.

☒ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Harris Beach PLLC, 100 Wall Street, New York, New York, 10005

Date and Time:

03/18/2010 9:00 am

The deposition will be recorded by this method: Transcription and videotape

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

See attached Exhibit "A"

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 02/25/2010

CLERK OF COURT

OR

s/Fred Thompson III

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

\_\_\_\_\_  
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) \_\_\_\_\_ Plaintiffs

\_\_\_\_\_, who issues or requests this subpoena, are:  
Fred Thompson III, Esq., Motley Rice LLC, PO Box 1792, Mt. Pleasant, SC 29465, fthompson@motleyrice.com (843) 216-9000.

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: